

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record compiled to date, the Board finds:

The September 28, 2000 Order should be affirmed. This case hinges upon the credibility of claimant and his wife. Claimant testified that within 10 days of the alleged March 1, 2000 accident he had notified several of his supervisors that he had been injured on the job. Claimant's wife testified that within 10 days of the alleged accident she also told one of claimant's supervisors that claimant had neck and arm pain due to his work. But those same supervisors denied receiving timely notice.

The Judge has now observed both claimant and his wife testify on two occasions. Based upon that personal observation, the Judge has found their testimonies credible and persuasive. In this instance, the Board defers to the Judge's determination of claimant's credibility and affirms the finding that claimant provided respondent with timely notice¹ of the accidental injury.

WHEREFORE, the Board affirms the September 28, 2000 Order.

IT IS SO ORDERED.

Dated this ____ day of January 2001.

BOARD MEMBER

c: Charles W. Hess, Wichita, KS
William L. Townsley, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director

¹ See K.S.A. 44-520.